

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN ZAPATA, an Individual and as
Assignee,

Plaintiff,

vs.

ALLIED PROPERTY AND CASUALTY
INSURANCE COMPANY and
NATIONWIDE MUTUAL INSURANCE
COMPANY, an Ohio Corporation,

Defendants.

Case No. _____

**NOTICE OF REMOVAL
AND
REQUEST FOR TRIAL AT
OMAHA, NEBRASKA.**

NOTICE OF REMOVAL

Defendants Allied Property and Casualty Insurance Company (hereinafter "Defendant Allied") and Nationwide Mutual Insurance Company, an Ohio Corporation (hereinafter "Defendant Nationwide"), file this Notice of Removal pursuant to 28 U.S.C. §§1441(a) and 1332. In support of this Notice, Defendants state:

1. Plaintiff John Zapata, an Individual and as Assignee (hereinafter "Plaintiff"), initiated this civil action by filing a Complaint captioned "*John Zapata, an Individual and as Assignee, Plaintiff, vs. Allied Insurance and Nationwide Mutual Insurance Company, an Ohio corporation, Defendant.*" in the District Court of Sheridan County, Nebraska, Case No. CI 12-30 on or about May 1, 2012.
2. Defendant Allied was served with process by certified mail on or about May 7, 2012.
3. Defendant Nationwide was served with process by certified mail on or about May 5, 2012.
4. This Notice is therefore filed less than thirty (30) days after Defendants' receipt of the initial pleading, as required by 28 U.S.C. §1446(b).

5. Defendants have not filed any responsive pleadings concerning this case in the District Court of Sheridan County, Nebraska, prior to the filing of this Notice of Removal.
6. Copies of all process, pleadings and orders served upon Defendants are attached hereto and incorporated herein as Exhibit "A" to this Notice.
7. The United States District Court for the District of Nebraska has original jurisdiction over the claims asserted in the state court action pursuant to 28 U.S.C. §1332(a) and the action may be removed to this Court by Defendants pursuant to 28 U.S.C. §1441(a).
8. Diversity of the Parties is complete: Plaintiff is domiciled in Nebraska, Defendant Allied is a corporation formed under the laws of the State of Iowa and having its principle place of business in Iowa, Defendant Nationwide is a corporation formed under the laws of the State of Ohio and having its principal place of business in Ohio.
9. The amount in controversy in this action is reasonably estimated to exceed \$75,000.00 exclusive of interest and costs.
10. Promptly after the filing of this Notice of Removal, written notice will be given by Defendants to all other parties as required by 28 U.S.C. §1446(d), and a copy of this Notice will be delivered to the District Court of Sheridan County, Nebraska.

WHEREFORE, Defendants Allied Property and Casualty Insurance Company and Nationwide Mutual Insurance Company, an Ohio Corporation, pray this entire cause be removed from the District Court of Sheridan County, Nebraska, to this Court.

REQUEST FOR TRIAL IN OMAHA, NEBRASKA

11. Defendants hereby request that trial be held in Omaha, Nebraska.

ALLIED PROPERTY AND CASUALTY INSURANCE
COMPANY and NATIONWIDE MUTUAL INSURANCE
COMPANY, an Ohio Corporation, Defendants

By: /s/Patrick V. Ortman
Thomas M. Locher, NE Bar #15797
Patrick V. Ortman, NE Bar #23439
Robert H. Grennan, NE Bar #24519
LOCHER PAVELKA DOSTAL BRADDY & HAMMES, L.L.C.
200 The Omaha Club
2002 Douglas Street
Omaha, NE. 68102
tlocher@lpdbhlaw.com
rgrennan@lpdbhlaw.com
Phone: (402) 898-7000
Fax: (402)898-7130

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY certifies that the foregoing was filed in and served by the ECF System of this Court, and that the following person(s) was mailed a copy thereof by United States Mail, on this 1st day of June, 2012:

John Zapata
1935 Yolande Avenue
Lincoln, NE 68521
Plaintiff-Pro Se

/s/Patrick V. Ortman

SHERIDAN COUNTY DISTRICT COURT

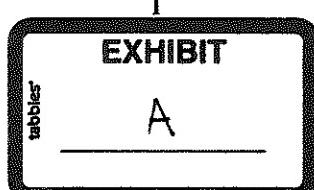
FOR THE STATE OF NEBRASKA

JOHN ZAPATA, an Individual and as Assignee,)
Plaintiff)
V.)
ALLIED INSURANCE and)
NATIONWIDE MUTUAL INSURANCE)
COMPANY, an Ohio corporation,)
Defendant.)
CASE NO. CT 12-30
COMPLAINT AND PRAECIPE

COMES NOW, the Plaintiff, John Zapata, and for its' Complaint against the Defendants, Allied Insurance ("Allied") and Nationwide Mutual Insurance Company ("Nationwide"), states and alleges as follows:

1. Cadiz is a partnership existing under the laws of the State of Nebraska, with its principal place of business in Lincoln, Lancaster County, Nebraska. MWE Services, Inc. has assigned it rights of collection to John Zapata of Lincoln, NE.
2. John Zapata is an individual residing in Lancaster County, NE. For purposes of this complaint, Cadiz, and John Zapata collectively and jointly will be referred to as "Plaintiff".
3. Allied has its company headquarters in Des Moines, Iowa, and is responsible for the independent agency system of Nationwide. Allied is authorized to conduct business in the State of Nebraska.
4. Nationwide is a financial services and insurance company organized under the laws of Ohio and authorized to conduct business in the state of Nebraska. This Court has subject matter

FILED
5-1-2012
ELOISE J. KAMPBELL
CLERK DISTRICT COURT
SHERIDAN COUNTY
NEBRASKA



jurisdiction over this matter under Neb. Rev. Stat. §24-302 and Neb. Rev. Stat. §25-21,149 through Neb. Rev. Stat. §25-21,164.

5. Venue is proper in Sheridan County, Nebraska, under Neb. Rev. Stat. § 25-403.01, because the matters at issue occurred in Sheridan County, Nebraska.

6. Plaintiff purchased policy number ACP CPP 7203117841 from Defendant for the policy period of January 10, 2008 to January 10, 2009 for a piece of property known as 4497, 436 Trail, Hay Springs, NE 68521, herein after known as the "Property"

7. On or about, December 20, 2008, Plaintiff's property was damaged by a broken water line due to the extreme freezing, causing severe damage to the property.

8. Plaintiff did not become aware that he had insurance coverage until Plaintiff was having a conversation with Plaintiff's Insurance agent on or about October 23, 2009.

9. Once Plaintiff became aware of the exiting coverage, Plaintiff notified Defendant of the damage to the property. Plaintiff has suffered damages in an amount yet to be determined, including, without limitation, loss of the full amount of the claim made on the policy, the loss of rental income, loss of use for the property, and the incurring of fees and costs.

10. On or about November 13, 2009, Defendant wrongfully denied Plaintiff's claim causing further damage to the property where the Plaintiff was not able to fix the property with the insurance financial assistance causing the property to further deteriorate from the water damage.

11. The improper and unreasonable refusal of coverage by Defendant has constituted a bad faith denial or delay of payment of Plaintiff's properly asserted claim under the Policy.

12. As a proximate result of the bad faith denial or delay of payment of Plaintiff's claim under the Policy, Plaintiff has suffered damages in an amount yet to be determined, including, without limitation, loss of the full amount of the claim made on the policy, and the incurring of fees and costs.

Prayer for Relief

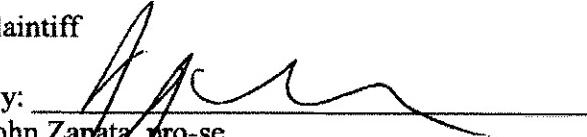
WHEREFORE, Plaintiff prays for judgment against Defendants Allied Insurance and Nationwide Mutual Insurance Company as follows:

- A. Against Defendants Allied Insurance and Nationwide Mutual Insurance Company in an amount yet to be determined, plus costs, including an award of legal fees pursuant to Neb. Rev. Stat. § 44-359;
- B. For all cost of repairing the damages due to the water line freezing.
- C. For the cost of this action; and
- D. For such other and further relief as the Court deems just and equitable.

DATED this 27th day of April, 2012.

John Zapata

Plaintiff

By: 
John Zapata, pro-se
1935 Yolande Ave
Lincoln, NE 68521
Tel: (402) 475-1600

PRAECIPE

**TO: CLERK OF THE DISTRICT COURT OF SHERIDAN COUNTY,
NEBRASKA**

Please prepare Summons in the above-captioned matter and deliver the same to John Zapata, 1935 Yolande Ave, Lincoln, NE 68521, for service upon defendants by certified mail, return receipt requested, addressed to:

Allied Insurance
1100 Locust St., Dept. 1100
Des Moines, Iowa 50391-2000

Nationwide Mutual Insurance Company
1100 Locust St., Dept. 1100
Des Moines, Iowa 50391-2000

Nationwide Mutual Insurance Company
One Nationwide Plaza 1-35-01
Columbus, Ohio 43215

John Zapata

Plaintiff

By:
John Zapata, pro-se
1935 Yolande Ave
Lincoln, NE 68521
Tel: (402) 475-1600

SERVICE RETURN

DOC. NO.

3624

SHERIDAN COUNTY DISTRICT COURT
 Sheridan County Courthouse
 PO Box 581
 Rushville NE 69360 0581

To:

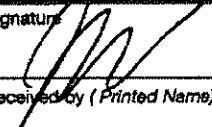
Case ID: CJ

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Allied Insurance
 1100 Locust St., Dept. 1100
 Des Moines, Iowa 50391-2000

COMPLETE THIS SECTION ON DELIVERYA. Signature  MONS Agent Addressee

B. Recipient by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES enter delivery address below: No

3. Service Type 010

- | | |
|---|---|
| <input type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail |
| <input type="checkbox"/> Registered | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail | <input type="checkbox"/> C.O.D. |

4. Restricted Delivery? (Extra Fee) Yes2. Article Number
 (Transfer from service label) 7011 2970 0003 9332 2634

PS Form 3811, February 2004

Domestic Return Receipt

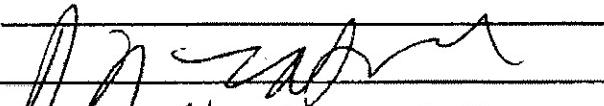
102595-02-M-1540

Date: _____ BY: _____
 (Sheriff or authorized person)

FILED
 5-14-12
 ELOISE J. KAMPBEL
 CLERK DISTRICT COURT
 SHERIDAN COUNTY
 NEBRASKA

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: Allied Insurance

At the following address: 1100 Locust Street Dept 1100Des Moines IA 50391-2000on the 3rd day of May 2012, as required by Nebraska state law.Postage \$ 5.95 Attorney for: The return receipt for mailing to the party was signed on May 5, 2012.

To: Nationwide Mutual Insurance Co.
 One Nationwide Plaza 1-35-01
 Columbus, OH 43215

From: John Zapata
 Individual and as Assignee
 1935 Yolande Ave
 Lincoln, NE 68521



000004900061

ATTACH RETURN RECEIPT & RETURN TO COURT

Doc. No. 3625

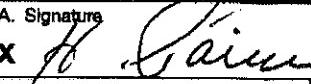
SHERIDAN COUNTY DISTRICT COURT
 Sheridan County Courthouse
 PO Box 581
 Rushville NE 69360 0581

To:

Case ID: CI 12 30 John Zapata v. Allied Insurance

Received this Summons on

I hereby certify that on

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
U <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. b <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: a Nationwide Mutual Insurance Company s One Nationwide Plaza 1-35-01 Columbus, Ohio 43215 c		B. Received by (Printed Name) C. Date of Delivery MAY 07	
2. Article Number <small>(Transfer from service label)</small>		D. Is delivery address different from item 1? <input type="checkbox"/> Yes <small>If YES, enter delivery address below:</small> <input type="checkbox"/> No	
7011 2970 0003 9332 2627		3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
PS Form 3811, February 2004		Domestic Return Receipt	
Date: <u>May 7, 2012</u>		BY: <u>John Zapata</u> <small>(Sheriff or authorized person)</small>	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes			

CERTIFIED MAIL PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,

TO THE PARTY: Nationwide Mutual InsuranceAt the following address: One Nationwide Plaza 1-35-01Columbus OH 43215on the 3rd day of May 2012 as required by Nebraska state law.Postage \$ 5.95Attorney for: PlaintiffThe return receipt for mailing to the party was signed on May 7, 2012

From: John Zapata
 Individual and as Assignee
 1935 Yolande Ave
 Lincoln, NE 68521

FILED
 5-16-12
 ELOISE J. KAMPBELL
 CLERK DISTRICT COURT
 SHERIDAN COUNTY
 NEBRASKA

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